

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

GARCIA-Tun, Ricardo Ediberto,

Defendant.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Magistrate Case No.

BY: *[Signature]*

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326;
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **October 18, 2005**, within the Southern District of California, defendant, **Ricardo Ediberto GARCIA-Tun**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Blake R. Bellamy
SIGNATURE OF COMPLAINANT
Blake R. Bellamy, Immigration &
Customs Enforcement, Deportation Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14th** DAY OF **November, 2007**.

[Signature]
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**NAME: GARCIA-Tun, Ricardo Ediberto****PROBABLE CAUSE STATEMENT**

As part of the assigned duties of the Detention and Removal Office, Deportation Officers review various sources in order to locate and identify incarcerated aliens that have been previously removed from the United States. This is done in order to determine if subjects have returned to the United States in violation of Title 8, United States Code, Section 1326.

On or about October 18, 2005, at approximately 3:45 p.m., Officers Peacock and Nelson of the Los Angeles Police Department's Harbor Division arrested the defendant identified as Ricardo Ediberto GARCIA-Tun for violation of 11350(A) HS – POSSESSION OF A NARCOTIC CONTROLLED SUBSTANCE. Subsequently, the defendant was convicted and sentenced to thirty-two months confinement at Centinela State Prison, Imperial, California. On November 6, 2007, Deportation Officer Christopher Salgado conducted a prison interview, determined the defendant to be a citizen of Mexico, and placed an immigration detainer pending his release.

On Tuesday, November 13, 2007, at approximately 8:15 a.m., the defendant was referred to United States Immigration and Customs Enforcement custody. Deportation Officer Blake R. Bellamy conducted official record checks in regards to the defendant confirming his status as a citizen and national of Mexico who had been previously deported from the United States.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant had been ordered removed from the United States on December 14, 2004, by an Immigration Judge in Centinela State Prison, Imperial, California, and subsequently removed to Mexico via the Calexico, California, Port-of-Entry, on December 28, 2004. Record checks further revealed that the defendant has been issued a re-instatement of removal on or about July 9, 2005, and removed to Mexico via the Nogales, Arizona, Port-of-Entry. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The defendant's fingerprints were compared to those contained in the Automated Biometric Fingerprint Identification System (IDENT) and Automated Fingerprint Identification System (IAFIS). The results confirmed the defendant's identity as Ricardo Ediberto GARCIA-Tun, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

At approximately 12:03 p.m., the defendant was admonished as to his rights per "MIRANDA" in the English language by Deportation Officer Blake R. Bellamy, as witnessed by Deportation Officer Gregory Harrison. The defendant acknowledged his rights per "MIRANDA" and elected to answer questions without an attorney present.

After having been admonished as to his rights per "MIRANDA" the defendant freely and voluntarily made the following acknowledgements and statements. The defendant stated that his true name is Richard Edelberto GARCIA, but admitted to having used the alias Ricardo Ediberto GARCIA-Tun. The defendant further stated that he is a citizen and national of Mexico by virtue of his birth in San Luis, Sonora, Mexico, on July 8, 1976. The defendant acknowledged that he was deported or removed from the United States to Mexico on or about the below listed dates at the corresponding locations, and that he has not obtained a waiver in order to re-enter the United States.